

VZCZCXR06608
RR RUEHMA RUEHPA
DE RUEHFN #0072 0561720
ZNR UUUUU ZZH
R 251720Z FEB 08 ZDK
FM AMEMBASSY FREETOWN
TO RUEHC/SECSTATE WASHDC 1721
INFO RUEHZK/ECOWAS COLLECTIVE
RUEHTC/AMEMBASSY THE HAGUE 0081
RUCNDT/USMISSION USUN NEW YORK 0275

UNCLAS FREETOWN 000072

SIPDIS

SIPDIS
SENSITIVE

DEPARTMENT FOR AF/W, S/WCI WILLIAMSON/GOREY
USUN NEW YORK FOR HILLMAN

E.O. 12958 N/A

TAGS: PREL PGOV KAWC KJUS PHUM SL

SUBJECT: SCSL APPEALS CHAMBER DELIVERS FINAL JUDGMENT IN AFRC CASE

¶11. SUMMARY: The Appeals Chamber of the Special Court for Sierra Leone (SCSL) handed down its first judgment on February 22, upholding lengthy sentences for three former leaders of the Armed Forces Revolutionary Council (AFRC). The Court effectively dismissed all of the Defense grounds of appeal, and though the Prosecution's appeal succeeded in part, no amendments were made to the convictions entered or sentences. An appeal related to the separation of the crime of forced marriage from the overarching charge of sexual slavery was upheld, which will have a lasting impact on international jurisprudence. END SUMMARY.

¶12. The SCSL Appeals Chamber ruled on the grounds of appeal submitted by Prosecution and Defense for the AFRC verdicts on February 22. Alex Tamba Brima, Brima Bazzi Kamara, and Santigie Borbor Kanu were convicted in June, 2007, on 11 of 14 counts of war crimes, crimes against humanity, and other serious violations of international humanitarian law. Brima and Kanu both received sentences of 50 years, while Kamara received a 45 year sentence.

¶13. The Appeals Chamber rejected nearly all grounds of appeal brought by the defendants (NOTE: The Trial Judgment was amended to reflect a decision that Counts 9, 12, and 13 of Kamara's conviction should have been under Article 6(3) as opposed to Article 6(1) of the Statute of the SCSL. This is a technical change that has no meaningful impact on the conviction or sentencing. END NOTE), and noted that some of the appeals filed were either grossly defective or inappropriate, based on past determinations. All convictions were thus upheld, and the sentences unchanged as a result of the appeals process.

¶14. The Prosecution's appeals were also largely struck down, with one notable exception: Ground Seven was upheld, finding that forced marriage is a separate crime against humanity from other inhumane acts, and that it should not have been subsumed as part of the sexual slavery charge. The Chamber noted that defining forced marriage in sexual terms is misleading, as this kind of relationship need not always involve sexual acts. While this decision has no impact on the AFRC convictions, it is the first such finding by any international court, and sets a precedent for other international tribunals and criminal proceedings.

¶15. Members of the Prosecution team expressed general satisfaction with the decisions in an informal meeting with poloff, though one particular rejection is seen by some to be a cause for concern. Ground Five, considering enslavement crimes as acts of terrorism, was rejected on the grounds that the accused had already been convicted of terrorism and collective punishments. The Chamber stated that it was "fruitless" to make findings of other acts of terrorism or collective punishments. Prosecution team members voiced concern that this judgment will be interpreted in the future as a finding that mass rape is not an act of terror or collective punishment.

¶6. Poloff did not have an opportunity to meet with the Defense for their reactions, but the teams did not express any obvious surprise or disappointment during the reading. The defendants themselves displayed limited response to the judgment or the gravity of the outcome, with Kamara appearing at times to sleep, and Brima smiling and waving to family members in the gallery. Kanu was the only defendant that appeared engaged, and poloff was told by a member of the Prosecution team that Kanu seemed to expect his appeals to succeed. Indeed, his defense team filed the most grounds of appeal, including those that the Chamber indicated to be the most egregious in terms of their level of appropriateness. The family members in attendance expressed emotion only once the announcement was made that the convictions would be upheld.

¶7. COMMENT: The handing down of the first appeals decision for the SCSL was a milestone event in the life of the Court, and set a precedent for future trials with regards to the issue of forced marriage. The speed with which the appeals judgments were reached was noted by many insiders as impressive, which will hopefully bode well for future appeals processes and, ultimately, adherence to the Completion Strategy. In the same vein, the commencement of the prison terms for Brima, Kamara, and Kanu effectively closes the AFRC chapter of the trials and brings the Court one large step closer to closing its doors - the goal for SCSL and donors alike. END COMMENT.